

Remarks

The Office Action has rejected claims 1-26 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement with respect to R<sup>3</sup> representing a R<sup>32</sup> substituted imidazole ring or a R<sup>32</sup> substituted pyrrole ring and the definition of K.

Applicants have amended page 10 of the specification to conform the definition of R<sup>31</sup> and R<sup>32</sup> to that set forth in the claims. Support for this change may be found at page 8, line 29 and in the original claims as well as at page 5 where R<sup>5</sup> = G.

Furthermore, in the claims as originally filed, the imidazole ring and the pyrrole ring in R<sup>3</sup> have been substituted by R<sup>31</sup>. R<sup>31</sup> itself has been defined in original claim 3 as being hydrogen, CHO and -(CH<sub>2</sub>)<sub>0</sub>-(CHR<sup>32</sup>)<sub>m</sub>-CH<sub>2</sub>)<sub>n</sub>-R<sup>5</sup>. In original claim 2 R<sup>31</sup> has been defined as hydrogen, C<sub>1</sub>-C<sub>4</sub> alkyl, OH and O-C<sub>1</sub>-C<sub>4</sub>-alkyl.

Both claims, claim 2 as well as claim 3, are dependent from claim 1. The previous Office Action stated that the definition of R<sup>3</sup> in claim 2 as well as the definition of R<sup>3</sup> in claim 3 (said definitions encompass the substituent R<sup>31</sup>) have no antecedent basis in claim 1. In response thereto the definition of R<sup>3</sup> in claim 3 have been included in claim 1. Nevertheless, the problem arose that the definitions of R<sup>31</sup> in claim 2 and R<sup>31</sup> in claim 3 were different. However, the definition of R<sup>32</sup> in claim 3 corresponds to the definition of R<sup>31</sup> in claim 2. Accordingly, the substituent R<sup>32</sup> in claim 3 has been renamed R<sup>31</sup>. Consequently, the substituent R<sup>31</sup> in claim 3 had to be renamed R<sup>32</sup>. Thus, the substitution pattern of the imidazole and the pyrrole ring in claim 3 did not change, only the name of the substituent has been changed. Therefore, in our opinion, no new subject matter has been added.

In this connection, please note that R<sup>5</sup> in -(CH<sub>2</sub>)<sub>o</sub>-(CHR<sup>31</sup>)<sub>m</sub>-CH<sub>2</sub>)<sub>n</sub>-R<sup>5</sup> has been previously changed to G to conform with the wording of claim 1.

The Office Action further objected to the definition of the variable K in claim 1. In the last response to the Office Action, the wording “phenyl which may carry at most two radicals R” has been deleted in response to an objection raised in the last Office Action. Therein, the Office Action correctly stated that the radical R is not defined neither in the description nor in claim 1.

The original wording allows for the optional substitution of the phenyl ring in the definition of K. According to the amended expression, said phenyl ring now cannot be substituted at all. This amendment represents a limitation of the original wording. Thus, it is believed, that while said amendment is not expressly supported by the description, the claimed subject matter has not been broadened in view of the original disclosure and, thus, should be deemed supported and acceptable.

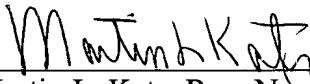
For the above noted reasons, withdrawal of this rejection is requested.

The Office Action also rejected claims 1-26 under 35 U.S.C. §112, second paragraph, as being indefinite. In making this rejection, the Examiner has referenced numerous itemsd in claim 1-3, 7 and 8. Applicants have attempted to correct all these items. If there are any further items that need to be corrected, the Examiner is requested to call the undersigned to obtain authorization for an Examiner’s Amendment.

Favorable consideration and allowance of claims 1-26 is respectfully requested.

Respectfully submitted,

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER

By:   
Martin L. Katz, Reg. No. 25,011

Date: December 4, 2003

500 W. Madison Street  
Suite 3800  
Chicago, Illinois 60661  
(312) 876-1800

CERTIFICATE OF MAILING

I hereby certify that this Amendment (along with any papers referred to as being attached or enclosed) is being sent by Express Mail (EV 348840838 US) to Box Non-Fee, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on December 4, 2003.

Rebecca J. Willis  
Rebecca J. Willis